



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/824,493
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Examiner : Lashonda T. Jacobs

Docket No. : 47181-00244USPT
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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 25, 2006.

Signature: *Carla Rivera*

37 C.F.R. § 1.131 DECLARATION

Dear Sir:

We, Timothy G. Curray and Bradley A. Lazenby, named co-inventors of pending U.S. Patent Application No. 09/824,493 ("the '493 application"), entitled "Ethernet Communications For Power Monitoring System," hereby declare:

1. We invented the subject matter of the claims of the '493 application prior to the filing date of U.S. Patent No. 6,961,641 ("the '641 patent"), which is November 28, 2000. Our '493 application was filed on April 2, 2001, which was slightly over four months after the '641 filing date.

2. The '493 application is assigned to the Square D Company, and the description and claims of the '493 application relate to a Square D product known as the Ethernet Communications Card, or "ECC." The ECC is a card for use in Square D's circuit monitor products, such as the Square D Series 3000 and Series 4000 circuit monitors, which are power monitoring equipment. The attached Exhibit A is a copy of an ECC Design Specification in which dates have been redacted, but which was prepared prior to November 28, 2000. Exhibit A is the source of much of the information contained in the '493 application including Figs. 2, 6, 7,

8 and 9 of the drawings, which correspond to Figs. 1, 2, 3 and 16, respectively, of Exhibit A. The device described in Exhibit A was reduced to practice prior to November 28, 2000, with the exception of the features described in sections 3.1.3.5 and 3.1.3.6 (pp. 27-30), 3.1.5 (pp. 34-35), 3.3 through 3.3.3.1 (pp. 43-47), 3.4 through 3.6 and 3.7.1 (pp. 48-49). As Exhibit A was edited from time to time, the entire text was not revised each time an edit was made, and thus certain features that were actually reduced to practice prior to November 28, 2000 are referred to in the future tense, or even identified as “future,” in portions of this version of the document. The portions that were reduced to practice prior to November 28, 2000 included all the elements of all the claims 1-41 in the ‘493 application. For example:

- the “processor” recited in independent claims 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 16, 38 and 41 corresponds to the CPU shown in Figure 1 on page 8 of Exhibit A, which is the same as Fig. 2 of the ‘493 application;
- the “communications interface” recited in independent claims 1, 3, 4, 5, 6, 7, 9, 11, 12, 14, 15, 38, 39 and 40 corresponds to the RS485 transceivers and the 10/100 Base TX FX PHY port shown in Figure 1 on page 8 of Exhibit A, which is the same as Fig. 2 of the ‘493 application,
- the “slave devices” recited in independent claims 1-3, 10-11, 18-19, 25-26, 32-33 and 38 corresponds to the “slave RS485 devices” referred to on page 7 of Exhibit A;
- the “real-time information” recited in independent claims 1, 9, 17, 24, 31 and 38 corresponds to the “real time, tabular data from the attached devices” referred to on page 36 of Exhibit A,
- the “HTML pages” recited in independent claims 1, 17, 24, 31 and 38 corresponds to HTML pages referred to on pages 2, 17, 21-22, 36, 50 and 55 of Exhibit A;
- the “master device” recited in independent claims 1 and 38 corresponds to the “master” referred to on pages 7, 11, 18, 50 and 51 of Exhibit A;
- the “JavaScript” recited in claims 4, 12, 20, 27 and 34 corresponds to the JavaScript referred to on pages 37 and 40 of Exhibit A;
- the “SyMax” recited in claims 3, 11, 19, 26 and 33 corresponds to the SyMax referred to on pages 7, 38 and 51 of Exhibit A;
- the “Modbus” recited in claims 3, 11, 19, 26 and 33 corresponds to the Modbus referred to on pages 7, 16, 20, 24, 31-33, 38, 51, 53, 55 and 58-60 of Exhibit A;

- the “Jbus” recited in claims 3, 11, 19, 26 and 33 corresponds to the Jbus referred to on pages 7, 24 and 51 of Exhibit A;
- the “web browser” or “internet browser” recited in claims 5, 8, 13, 16, 21 and 41 corresponds to the web browser or internet browser referred to on pages 17, 21 and 22 of Exhibit A;
- the “login” recited in claims 5, 13, 21, 28 and 35 corresponds to the login referred to on pages 17, 31, 36 and 50 of Exhibit A;
- the “access token” recited in claims 5, 13, 21, 28 and 35 corresponds to the access token referred to on pages 17, 31 and 59 of Exhibit A;
- the “fast ethernet transceiver” recited in claims 7, 15 and 40 corresponds to the fast ethernet transceiver referred to on page 12 of Exhibit A;
- the “10/100” recited in claims 7, 15, 23, 30, 37 and 40 corresponds to the 10/100 referred to on pages 7, 8, 10 and 12 of Exhibit A;
- the “pseudo-ECL” recited in claims 7, 15, 23, 30, 37 and 40 corresponds to the pseudo-ECL referred to on page 12 of Exhibit A;
- the “100Base” recited in claims 7, 15, 23, 30, 37 and 40 corresponds to the 100Base referred to on pages 7 and 12 of Exhibit A;
- the “daisy chain” recited in claims 3, 11, 19, 26 and 33 corresponds to the daisy chain referred to on pages 11, 20, 24 and 36 of Exhibit A;
- the “full duplex” and “half duplex” recited in claims 3, 11, 19, 26 and 33 corresponds to the full duplex and half duplex referred to on pages 1 and 51 of Exhibit A; and
- The “single physical interface chip capable of supporting dual physical ethernet media types” recited in claims 6, 14, 22, 29, 36 and 39 corresponds to the PHY referred to throughout Exhibit A and identified on page 14 of Exhibit A as an “IC,” which means an integrated circuit or chip.

3. The attached Exhibit B is a copy of an ECC Instruction Bulletin that was prepared prior to November 28, 2000, and which is the source of certain of the information contained in the ‘493 application, including Figs. 1, 3, 4 and 5 of the drawings, which correspond to Figs. 4-1, 1-2, 4-5 and 4-8, respectively, of Exhibit B. The device described in Exhibit B was reduced to practice prior to November 28, 2000 and included all the elements of all the claims 1-41 in the ‘493 application. For example:

- the “slave devices” recited in independent claims 1-3, 10-11, 18-19, 25-26, 32-33 and 38 corresponds to the slave devices referred to on page 39 of Exhibit B;
 - the gathering of “real-time information” recited in independent claims 1, 9, 17, 24, 31 and 38 corresponds to the real-time information referred to on pages 25, 35, 36, 37, 38, 39, 40, 41 and 42 of Exhibit B;
 - the “HTML pages” recited in independent claims 1, 17, 24, 31 and 38 corresponds to HTML pages referred to on pages 3, 8, 9, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 36, 37, 38, 39, 41, 44, 45 and 53 of Exhibit B;
 - the “master device” recited in independent claims 1 and 38 corresponds to the “master” referred to on pages 9, 30 and 31 of Exhibit B;
 - the “JavaScript” recited in claims 4, 12, 20, 27 and 34 corresponds to the JavaScript referred to on pages 37 and 40 of Exhibit B;
 - the “Modbus” recited in claims 3, 11, 19, 26 and 33 corresponds to the Modbus referred to on pages 3, 27, 28, 38, 48, 49 and 52 of Exhibit B;
 - the “Jbus” recited in claims 3, 11, 19, 26 and 33 corresponds to the Jbus referred to on pages 3, 27, 28 and 52 of Exhibit B;
 - the “web browser” or “internet browser” recited in claims 5, 8, 13, 16, 21 and 41 corresponds to the web browser or internet browser referred to on pages 3, 8, 16, 19, 23, 24, 26, 32 and 33 of Exhibit B;
 - the “login” recited in claims 5, 13, 21, 28 and 35 corresponds to the login referred to on pages 24 and 29 of Exhibit B;
 - the “access token” recited in claims 5, 13, 21, 28 and 35 corresponds to the access token referred to on page 33 of Exhibit B;
 - the “10/100” recited in claims 7, 15, 23, 30, 37 and 40 corresponds to the 10/100 referred to on pages 12, 19, 20 and 23 of Exhibit B;
 - the “100Base” recited in claims 7,, 15, 23, 30, 37 and 40 corresponds to the 100Base referred to on pages 12, 19 and 20 of Exhibit B;
 - the “daisy chain” recited in claims 3, 11, 19, 26 and 33 corresponds to the daisy chain referred to on pages 3, 8, 9, 12, 16, 17, 18, 19, 25, 26, 28, 31, 37 and 52 of Exhibit B;
- and

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- the "full duplex" and "half duplex" recited in claims 3, 11, 19, 26 and 33 corresponds to the full duplex and half duplex referred to on pages 20, 23 and 26 of Exhibit B.

4. In view of Exhibits A and B, the subject matter of the '493 application was conceived prior to November 28, 2000, the filing date of the Forth '641 patent. Additionally, after the development of Exhibit A and Exhibit B, we continued with the internal commercial development of the technology that is the subject matter of the '493 application at least until April 2, 2001, the filing date of the '493 application.

5. In addition to our work on the technology, between November 28, 2000 and April 2, 2001, we also continued to diligently work with patent counsel on developing the patent application that resulted in the '493 application.

6. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and, further, that these statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the '493 application or any patent issued thereon.

Dated: March 7, 2006

Dated: ^{April}~~March~~ 7 2006

Timothy G. Curray
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